

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

No. CR. 1:23-269 KWR

LEROY SEGURA ROMERO,

Defendant.

**ORDER**

The Court having considered Defendant's *Unopposed Motion to Continue Trial* Setting and Pretrial Deadlines [Doc. 22], being fully advised in the premises and in light of the holding in United States v. Toombs, 574 F.3d 1262 (2009), finds that insufficient grounds have been established to vacate the established deadline for pretrial motions and continue the current trial date of March 11, 2024. March 11, 2024 represents the fourth trial setting in this matter.

Defendant's motion fails to set forth reasons that would support a finding by this Court that "the ends of justice served by the granting of such a continuance outweigh the best interests of the public and the defendant in a speedy trial." Id. at 1268. Specifically, Defendant failed to explain (1) how the failure to grant a continuance would likely render trial impossible or result in a miscarriage of justice or (2) how the unusual nature of the case or its complexities would make it unreasonable to expect adequate preparation for pretrial or trial proceedings within the time limits established by the Speedy Trial Act. See id. at 1268-69.

Although Defendant's Motion to Continue is unopposed, it is "the responsibility of not only the district court, but also the government, to protect the interests of the public by

ensuring adherence to the requirements of the Speedy Trial Act.” Id. At 1273. Thus, the government’s failure to object to the motion to continue or to inquire into the necessity of a continuance leaves this Court without a basis to make adequate findings to support granting a further continuance of the trial date in this matter. See id. at 1273-74.

Defendant is granted leave to amend the Unopposed Motion to Continue Trial Setting and Pretrial Deadlines in order to provide this Court with a factual basis on which to grant a continuance in accordance with the mandate set forth in Toombs. To the extent that establishing a factual basis would require Defendant to reveal confidential trial strategy or other CJA-related matters, Defendant is permitted to file the amended Motion ex parte and under seal. The Court will then make a determination in consideration of the representations made by counsel and the authority in Toombs, keeping in mind it is well established that “[t]he ends-of-justice exception to the otherwise precise requirements of the [Speedy Trial] Act was meant to be a rarely used tool for those cases demanding more flexible treatment.” Id. at 1269 (alterations omitted) (internal quotation marks and cited omitted).

**IT IS ORDERED** that the Unopposed Motion to Continue Trial Setting and Pretrial Deadlines is **DENIED**; provided that Defendant is granted leave to amend the Motion in accordance with this Order.

**IT IS FURTHER ORDERED** that trial will commence on **March 11, 2024 at 9:00a.m.** A pretrial Conference will be held on **March 7, 2024 at 9:00 a.m.**

  
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KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE